

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 7004**

**BILL NUMBER:** HB 1340

**NOTE PREPARED:** Jan 6, 2012

**BILL AMENDED:**

**SUBJECT:** Motor Vehicle Review Board.

**FIRST AUTHOR:** Rep. Speedy

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
☐ **FEDERAL**

**IMPACT:** State

**Summary of Legislation:** This bill establishes the Motor Vehicle Review Board to assist the Secretary of State (SOS) in matters related to motor vehicle dealers, manufacturers, and distributors, including the adjudication of unfair practices. The bill provides that proceedings of the board are subject to the Administrative Orders and Procedures Act (AOPA).

The bill authorizes the Board to impose and collect filing fees and civil penalties. It establishes the Motor Vehicle Review Board Administrative Fund and deposits the fees and penalties prescribed under the bill in the fund.

The bill also amends existing and establishes new provisions concerning unfair practices with respect to motor vehicle dealers, manufacturers, and distributors.

**Effective Date:** July 1, 2012.

**Explanation of State Expenditures:** *Motor Vehicle Review Board:* This bill establishes the Motor Vehicle Review Board and specifies Board membership. The Board consists of 12 members plus the Secretary of State. Board members who are not state employees are entitled to per diem and reimbursement for travel expenses.

The maximum estimated expenditure per Board meeting is expected to be approximately \$1,650. Total increases in expenditures for Board meetings will depend on (1) where Board members travel from, (2) where Board meetings are held, (3) if Board members claim per diem and travel reimbursement, and (4) how many meetings the Board holds per year. Actual increases in expenditures is indeterminable. However, Board

expenditures are expected to be offset by revenue generated from filing fees and civil penalties deposited in the Motor Vehicle Review Board Administrative Fund, also created by this bill.

The bill also specifies duties of the Board. These duties are expected to be accomplished within the revenue generated from filing fees and civil penalties prescribed in the bill, as described in more detail below.

*Impact to the Attorney General:* Under the bill, the Board may institute a civil action in any circuit or superior court in Indiana. As a result, it is assumed the Attorney General would act on behalf of the state to seek injunctive relief against individuals engaged in unfair practices or deceptive franchise practices. The increase in workload to the Attorney General is indeterminable at this time.

*Administrative Orders and Procedures Act:* The bill allows an individual to appeal a ruling made by the Board under the AOPA. To the extent an individual appeals a ruling made by the board, the workload of administrative law judges (ALJs) to review Board determinations is expected to increase. Actual increases in workload are indeterminable but expected to be small.

**Explanation of State Revenues:** *Revenue from Filing Fees:* The bill creates the following filing fees:

- (1) Consumer complaint alleging violation of IC 9-23, \$75
- (2) Dealer, distributor, manufacturer protest alleging violation of IC 9-23 or deceptive franchise practices (IC 23-2-2.7), \$3,000

The filing fees collected for these complaints are to be deposited in the Motor Vehicle Review Board Administrative Fund (MVRB Fund).

*Revenue from Civil Penalties:* Under current law, the penalty for an unfair practice involving motor vehicles is subject to a civil penalty between \$50 and \$1,000 for each day of violation or each violating act. The court determines the specific penalty amount. Revenue collected from these civil penalties is currently deposited in the Securities Division Enforcement Account.

Under the bill, an unfair or deceptive act (violation of IC 9-23-3) and deceptive franchise practice is punishable with a civil penalty not to exceed \$1,000 for each day of violation or each violating act. Revenue collected from these civil penalties is to be deposited in the MVRB Fund.

Under the bill, some revenue from penalty fees is expected to be deposited in the MVRB Fund instead of the Securities Division Enforcement Account. However, the bill also adds new unfair practices and amends unfair practices currently found in Indiana Code. By adding additional unfair practices and amending current unfair practices, this bill is expected to increase state revenue from civil penalties. Increases in revenue from civil penalties is indeterminable.

*Revenue from Court Fees:* If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$5), judicial salaries fee (\$19), public defense administration fee (\$5), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:** *Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

**State Agencies Affected:** SOS, Attorney General, AOPA ALJs, Circuit/Superior Courts.

**Local Agencies Affected:**

**Information Sources:** Matt Light, Office of the Attorney General.

**Fiscal Analyst:** Bill Brumbach, 232-9559.